

JUN 30 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HECTOR JAVIER QUINONEZ-
MARTINEZ,

Defendant - Appellant.

No. 07-50139

D.C. No. CR-06-01169-MJL

MEMORANDUM^{*}

Appeal from the United States District Court
for the Southern District of California
M. James Lorenz, District Judge, Presiding

Argued and Submitted April 8, 2008
Pasadena, California

Before: HALL, T.G. NELSON, and SILVERMAN, Circuit Judges.

Hector Javier Quinonez-Martinez (“Quinonez”) appeals his jury conviction and 72-month prison sentence for illegally reentering the United States after being deported. *See* 8 U.S.C. § 1326. Quinonez also appeals the district court’s denial of

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

his Rule 29 motion for acquittal. We have jurisdiction under 28 U.S.C. § 1291 and 18 U.S.C. § 3742. We affirm.

The district court properly denied the Rule 29 motion because the government presented sufficient evidence of alienage, including Quinonez' confession, circumstantial evidence, and a prior removal order. *See United States v. Galindo-Gallegos*, 244 F.3d 728, 732 (9th Cir. 2001). Viewing this evidence in the light most favorable to the government, a rational trier of fact could easily find sufficient evidence of alienage. *Id.*

The district court also correctly determined that a conviction under California Penal Code § 211 is a crime of violence under Sentencing Guidelines § 2L1.2. *See United States v. Becerril-Lopez*, ___ F.3d ___, No. 05-50979, 2008 WL 2371639, at *8 (9th Cir. June 12, 2008).

AFFIRMED.